

## **MINUTES**

### **MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **SEN. MIKE COONEY**, on March 23, 2005 at 3:00 P.M., in Room 317-C Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Vicki Cocchiarella (D)  
Sen. Mike Cooney (D)  
Sen. Jon Ellingson (D)  
Sen. Jeff Essmann (R)  
Sen. Steven Gallus (D)  
Sen. Rick Laible (R)  
Sen. Dave Lewis (R)  
Sen. Jim Shockley (R)  
Sen. Joseph (Joe) Tropila (D)

**Members Excused:** Sen. Carolyn Squires (D)  
Sen. Vicki Cocchiarella (D)

**Members Absent:** Sen. Joe Balyeat (R)

**Staff Present:** Dave Bohyer, Legislative Branch  
Claudia Johnson, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 590, 3/3/2005; HB 376, 3/3/2005;  
HB 177, 3/3/2005; HB 297, 3/3/2005  
Executive Action: None.

**HEARING ON HB 590**

**Opening Statement by Sponsor:**

**REP. ROSALIE (ROSIE) BUZZAS (D), HD 93**, opened the hearing on **HB 590**, Revise elector reactivation.

**REP. BUZZAS** said the elector must be moved by an election administrator from the inactive list to the active list of a county if an elector meets the requirements for registration provided, such as appearing in order to vote or voting by absentee ballot in any election, and notifying the county election administrator in writing of the elector's current residence, which must be in that county.

**Proponents' Testimony:**

**Vicki Zeier, Clerk and Recorder fo Missoula County**, thanked **REP. BUZZAS** for carrying this bill. She said the clerks and recorders have to activate city elections 30-days prior to elections. She urged the Committee to pass HB 590.

**Robert Throssell, representing the Montana Association of Clerks and Recorders**, stated the association also supports this bill for the reasons that **Ms. Zeier** gave. He urged a do pass for HB 590.

**Elaine Gravely, Election Deputy for the Secretary Of State's Office**, said the Secretary of State's Office also supports HB 590.

**Brad Martin, Executive Director of the Democratic Party**, said this is a good bill. Anything that increases the voters to be actively involved in the election process is a good thing. He urged the Committee to support this bill.

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. ESSMANN** asked **Elaine Gravely** if this bill does the same as SB 302, **SEN. ELLINGSON'S** bill. She said this bill can activate any election, such as school elections, water district elections, etc.

**Closing by Sponsor:**

**REP. BUZZAS** closed, stating that SB 302 doesn't cover school elections and such. She said anytime there is a law in place that will encourage voters to be involved it is a good law. She asked the Committee to concur in HB 590.

**SEN. COONEY** will carry this bill.

**HEARING ON HB 376**

*{Tape: 1; Side: A; Approx. Time Counter: 7.1 - 16.4}*

**Opening Statement by Sponsor:**

**REP. CHRISTOPHER HARRIS (D), HD 66**, opened the hearing on **HB 376**, Revise time for presidential primary election.

He said if we had a early general election we would get the person running for president to the state of Montana. He said this bill will require the Secretary of State's Office to pick a date in February or March in the year in which a president of the United States is to be elected. He said the bill also allows the primary election to be conducted by mail ballot requiring the Secretary of State to specify the form of the primary election ballot. He said the ballot must list all candidates nominated in accordance with the provisions listed, and must include a presidential ballot position designated as "no preference" and a blank write-in space. He informed the Committee the elections that may not be conducted by mail ballot at this time are: regularly scheduled federal, state, or county elections, unless authorized by the legislature.

**Proponents' Testimony:**

**Brad Johnson, Secretary of State**, said they strongly support this bill. He commended **REP. HARRIS** for bringing this bill forth. He said "if we structure the elections in such a way, we could be part of the process in electing the presidential candidate for the United States." He urged the Committee to support this bill.

**Brad Martin, Executive Director of the Democratic Party**, informed the Committee there was long discussion in the legislature on procedure for Montana to have an impact on picking a presidential candidate. He said it gives the Secretary of State the power to negotiate voter participation in choosing a presidential candidate, so the west will have some say in the election process. He urged the Committee to support this bill.

**Doug Mitchell, representing himself**, informed the Committee that he assisted in the presidential campaign in 1992. He said, "if this bill goes through, we'll get the president here in Montana." He urged the Committee to concur for HB 590.

**Opponents' Testimony:** None.

**Informational Testimony:**

**Robert Throssell, representing the Montana Election**

**Administrators**, stated they have no issues one way or another with this bill, but he wanted to know who will pay the three-quarters of a million dollars. He said the bill specifies that the balloting may be done by mail, but the election administrators will still have to handle the ballots. He said the administrators will be happy to handle the election, and stated that they will not have to face this issue until the next presidential election, which takes place in 2008.

**Questions from Committee Members and Responses:**

**SEN. LEWIS** directed his comment to **Mark Simonich, Secretary of State's Office**, who said this bill has been before the legislature several times, but has always died with the fiscal note. **SEN. LEWIS** wanted to know why **Mr. Simonich's** office didn't mention the three-quarters of a million dollars that this would cost. **Mr. Simonich** said that the three-quarters of a million should have been mentioned in the long term cost. There will not be a cost in this biennium, and it will give the legislature, and the Secretary of State's office the opportunity to look at funding sources in the 2007 Legislative session.

**SEN. SHOCKLEY** stated that he and **SEN. COBB** killed this bill in the 1999 Legislature. **Brad Johnson** said this bill only moves the presidential primary. He said all of the other primaries will take place on their same date.

**SEN. COONEY** commented that Governor Bill Richardson, New Mexico, is talking about a regional primary. He stated there have been other plans that have been explored on doing regional primaries in several western states, and asked **Mr. Johnson**, if he is aware of any of those discussions and plans. **Mr. Johnson** replied yes. He said there are 12 western states. He said "our regional primary would include six states that will include; the two Dakotas, Wyoming, Montana, Idaho, and Utah. He said in this grouping of states, there will be a pool of delegates comparable to Ohio, and would be a major process. He said this regional primary will keep states like Colorado from overshadowing Montana.

**SEN. COONEY** informed the Committee that he and **Governor Lovitt, of Utah**, co-chaired a conference to discuss a presidential primary, and it was this proposal from that meeting that he, **SEN. COONEY** and **Governor Mark Racicot**, brought forth in the 1999 Legislature that was so quickly killed.

**Closing by Sponsor:**

**REP. HARRIS** closed. He asked the Committee to allow this bill to go forward, which will give the legislature and the Secretary of State's office two years to determine how to fund the election. He urged the Committee to concur in HB 590.

**SEN. COONEY** will carry HB 590.

**HEARING ON HB 177**

*{Tape: 1; Side: B}*

**Opening Statement by Sponsor:**

**REP. ALAN OLSON (R), HD 45**, opened the hearing on **HB 177**, Revise election procedure.

**REP. OLSON** went through the bill explaining what each section will do. He distributed a amendment HB017713.ash. (see Exhibit 1)

**EXHIBIT**(sts64a01)

**Proponents' Testimony:**

**Brad Johnson, Secretary of State's Office**, said the provision on the ballots in the last election were over-voted. He discussed the Supreme Court decision regarding district 12, Polson, and how that outcome wouldn't have changed with this bill. He urged the Committee to support HB 177.

**Elaine Gravely, Election Deputy for the Secretary of State's Office**, discussed Sections 1 and 18, that was requested by the auditors. She stated that a death certificate or obituary from the newspaper can be used to take the voter off of the register, it doesn't have to be on the form from the Secretary of State's Office. She talked about over-load; if a person votes two times, the machine will not allow it. She urged the Committee to pass HB 177.

**Robert Throssell, representing the Montana Association of Clerks and Recorders**, said they support HB 177 and the amendments submitted by **REP. OLSON**. He informed the Committee that write-in votes have to be in following Monday at 3:00 p.m. after the elections. He urged the Committee to pass this bill.

**Duane Winslow, Election Deputy from Yellowstone County, Billings**, stated this is a good bill, and asked the Committee to pass this bill.

**Linda Brannan, representing the Montana School Business Officials**, stated their support for HB 177, and urged a do pass.

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. SHOCKLEY** asked **Elaine Gravely** if this bill will create another problem if an error is made on the ballot. **Ms. Gravely** replied that a person can go into the machine and check their ballot up to three times.

**SEN. LEWIS** said he has received numerous e-mails and telephone calls to vote no on this bill, and wanted to know if there was a movement going on in the Billings area against election reform. **Duane Winslow** replied no, and that he is very surprised by this question.

**SEN. COONEY** asked Sheri Heffelfinger to explain the amendment. **Ms. Heffelfinger** walked the Committee through the amendment section by section, and how the amendment relates to the over-vote and under-vote.

**{Tape: 2; Side: A}**

**SEN. COONEY** asked **Ms. Gravely** if she had any problems with the amendments taking effect immediately. **Ms. Gravely** responded, no.

**Closing by Sponsor:**

**REP. OLSON** closed.

**SEN. ESSMANN** will carry the bill.

**HEARING ON HB 297**

***{Tape: 2; Side: A; Approx. Time Counter: 7.5 - 20.9}***

**Opening Statement by Sponsor:**

**REP. BRADY WISEMAN (D), HD 65**, opened the hearing on **HB 297**, Require use of paper ballots in all elections.

**REP. WISEMAN** distributed a handout on the acceptance test requirement for direct recording electronic system (DRE), such as touch-screen used for voting machines. He discussed each item and each point regarding the testing of the machines, and how the software and systems work (see Exhibit 2). He had **Sheri Heffelfinger, LSD**, distribute amendments, and she explained how they affect the bill (see Exhibit 3). **REP. WISEMAN** distributed amendments that will coordinate this bill with SB 302. If SB 302 and HB 297 both are approved, and pass out of Committee and on to the floor, and if SB 302 amends 13-17-103 to add a subsection (1)(k) allowing the use of a direct recording electronic voting system, then subsection (1)(k) of SB 302 is void (see Exhibit 4).

**EXHIBIT**(sts64a02)

**EXHIBIT**(sts64a03)

**EXHIBIT**(sts64a04)

**Proponents' Testimony:**

***{Tape: 2; Side: A; Approx. Time Counter: 23.9 - 25}***

**Brad Johnson, Secretary of State**, said that **REP. WISEMAN** did not over-state the scenario of electronic re-counts when using touch screen machines. He informed the Committee that the amendments will keep election judges and voters above board, and there cannot be any cheating.

**Duane Winslow, Election Deputy of Yellowstone County**, said they support this bill, and asked the Committee to pass HB 297.

***{Tape: 2; Side: B}***

**Brad Martin, Executive Director for the Democratic Party**, discussed DREs, and the fear of mischief with touch screens. He said this bill sends a message that Montanans want to approach the issue on how to provide this alternative electronic voting. He said there are a lot of concerns with DREs and this bill will solve this issue by creating paper ballots. He urged the Committee to support this bill.

**Robert Throssell, representing Montana Association of Clerks and Recorders**, informed the Committee that the association opposed this bill in the House Committee. He said they can support HB 297 now, because the amendments take care of the concerns they had.

**Jean-Marie Souvigney, representing Montana Council on Voters**, said they support this bill after working with **SEN. ELLINGSON** on his bill, SB 302, to coordinate with this bill. She urged the Committee to pass this bill.

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

*{Tape: 2; Side: B; Approx. Time Counter: 3 - 9}*

**SEN. SHOCKLEY, SEN. LAIBLE**, and the other Committee members discussed with **REP. WISEMAN** and **Elaine Gravely** how the auto mark is made on the ballot by the machine, and the audit strip on the ballot, which is only used when counting the ballots.

**Closing by Sponsor:**

**REP. WISEMAN** closed by informing the Committee that the Department of Justice, Gambling Control Division, are the people that test the voting machines. He urged the Committee to vote in favor of HB 297. **REP. WISEMAN** didn't know who will be carrying the bill on the floor.



**ADJOURNMENT**

Adjournment: 5:00 P.M.

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SEN. CAROLYN SQUIRES, Chairman

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CLAUDIA JOHNSON, Secretary

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Additional Exhibits:

**EXHIBIT ([sts64aad0.PDF](#))**